

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

**SUPPORT SOLUTIONS OF
THE MID-SOUTH, LLC,**

Plaintiff,

VS.

NO. 2:20-cv-2293

**PHILADELPHIA INDEMNITY
INSURANCE COMPANY,**

Defendant.

NOTICE OF REMOVAL

The Defendant, Philadelphia Indemnity Insurance Company (“PIIC”), hereby files this Notice of Removal of this action from the Chancery Court for the Thirtieth Judicial District, Shelby County, Tennessee, Case No. CH-20-0373, and shows the Court the following:

1.

On March 12, 2020, the above-entitled action was filed against PIIC in the Chancery Court for the Thirtieth Judicial District, Shelby County, Tennessee, and is now pending therein.

2.

Plaintiff in the state court action, Support Solutions of the Mid-South, LLC (“Support Solutions”) served the Complaint upon the Commissioner of the Tennessee Department of Commerce and Insurance, which in turn sent the Summons and Complaint to PIIC. PIIC received the Summons and Complaint from the Commissioner of the Tennessee Department of Commerce and Insurance on March 30, 2020.

3.

The filing of this Notice of Removal therefore is timely under 28 U.S.C. § 1446(a).

4.

PIIC has received no service of any additional pleadings, and a copy of all known pleadings and orders in the state court action is attached hereto as Exhibit A.

5.

Based upon communications from Support Solutions' counsel and the allegations on the face of the Complaint, the amount in controversy in the state court action, exclusive of interest and costs, easily exceeds \$75,000.00.

6.

Support Solutions is a limited liability company which, upon information and belief, has a single managing member, Dr. Larry Durbin, who is domiciled in the State of Tennessee. Because a limited liability company's domicile is determined by the domicile of its members, Support Solutions is deemed to be a domiciliary of the State of Tennessee. Defendant Philadelphia Indemnity Insurance Company is a corporation incorporated in and with its principal place of business in the State of Pennsylvania. Therefore, complete diversity of citizenship exists between the parties.

7.

This is a civil action brought by Support Solutions against PIIC for declaratory judgment, alleged breach of contract, alleged bad faith failure to pay under Tenn. Code Ann. §56-7-101 *et seq.*, and alleged promissory estoppel. PIIC asserts a counterclaim for bad faith under Tenn. Code Ann. §56-7-106.

8.

This Court has original jurisdiction of this action pursuant to 28 U.S.C. § 1332, as the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs, and the dispute is between citizens of different states. The action therefore may be removed to this Court pursuant to 28 U.S.C. § 1441(a).

9.

Defendant demands a trial by jury as to all claims, and properly asserted such demand in the state court action prior to removal.

WHEREFORE, the Defendant, Philadelphia Indemnity Insurance Company, prays that the state court action be removed from Chancery Court for the Thirtieth Judicial District, Shelby County, Tennessee to this Court.

Respectfully submitted,

GLASSMAN, WYATT, TUTTLE & COX P.C.

/s/ Carl Wyatt
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(*Pro Hac Vice to be submitted*)

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*Attorneys for Defendant Philadelphia Indemnity
Insurance Company*

CERTIFICATE OF SERVICE

I hereby certify that I have electronically filed the foregoing with the Clerk of the Court using the CM/ECF system. I further certify that a true and correct copy of the foregoing pleading has been properly served by U.S. Mail, postage prepaid and/or e mail (acp@psmemphis.com), upon the following:

Anthony C. Pietrangelo
International Place – Tower II
6410 Poplar Avenue, Suite 710
Memphis, Tennessee 38119

This 20th day of April, 2020.

/s/ Carl Wyatt
CARL WYATT